

NICHOLAS A. TRUTANICH
United States Attorney
District of Nevada
Nevada State Bar Number 13644
BRETT C. RUFF
Assistant United States Attorney
501 Las Vegas Blvd. South, Suite 1100
Las Vegas, Nevada 89101
Phone: (702) 388-6336
brett.ruff@usdoj.gov

Attorneys for the United States

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID ANDRE WEAVER,

Defendant.

Case No. 2:20-mj-00310-DJA

**ORDER to Continue Preliminary Hearing
(Fourth Request)**

IT IS HEREBY STIPULATED AND AGREED by and between, Nicholas A. Trutanich, United States Attorney, District of Nevada, Brett Ruff, Assistant United States Attorney, representing the United States of America, and Erin Gettel, Assistant Federal Public Defender, representing Defendant David Andre Weaver, that the preliminary hearing in the above-captioned case, which is currently scheduled for September 14, 2020 at 4:00 p.m., be continued by 21 days and reset to a time and date acceptable to the Court.

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1. The preliminary hearing in this matter initially was scheduled for May 14, 2020. In light of the COVID-19 pandemic, and the resulting closures, resource limitations, and social distancing guidelines, the parties stipulated to continue the preliminary hearing to September 14, 2020.
2. The parties jointly believe that it would be prudent and there is good cause to continue the hearing further, and they request a further continuance of 21 days.
3. The defendant is in custody but consents to the continuance.
4. Federal Rule of Criminal Procedure 5.1(d) provides that a magistrate judge may continue a preliminary hearing with the defendant's consent and upon a showing of good cause, taking into account the public interest in the prompt disposition of criminal cases. Because of the COVID-19 pandemic, and the resulting various closures, resource limitations, and social distancing guidelines, good cause exists to extend the deadline for the preliminary hearing. Furthermore, good cause exists because Weaver intends to plead guilty on September 23, 2020 to a criminal information arising from the same facts and circumstances at issue in this matter, and a continuance will afford Weaver the opportunity to do so and to render the scheduled Preliminary Hearing unnecessary.
5. The time from September 14, 2020 through the continued hearing date will be excludable under the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A), which provides that the Court may exclude time arising from a continuance upon finding that the ends of justice served by granting the continuance outweigh the best interest of the defendant and the public in a speedy trial.
6. The time from September 14, 2020 through the continued hearing date will be excludable in computing the time within which the indictment must be filed pursuant to the Speedy Trial Act, Title 18, United States Code, Section 3161(b), considering the factors under

1 Title 18, United States Code, Section 3161(h)(7)(A) and (B)(i) and (iv). The time from
2 September 14, 2020 through the continued hearing date also will be excludable in
3 computing the 90-day speedy trial clock imposed by the Speedy Trial Act, Title 18, United
4 States Code, Section 3161(c), considering the factors under Title 18, United States Code,
5 Section 3161(h)(7)(A) and (B)(i) and (iv).

- 6 7. Denial of this request could result in a miscarriage of justice, and the ends of justice served
7 by granting this request outweigh the best interest of the public and the defendant in a
8 speedy trial.

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10 DATED this 1st day of September, 2020.

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12 NICHOLAS A. TRUTANICH
United States Attorney

RENE L. VALLADARES
Federal Public Defender

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14 /s/
15 BRETT RUFF
Assistant United States Attorney

/s/
ERIN GETTEL
Counsel for Defendant
David Andre Weaver

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

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Case No. 2:20-mj-00310-DJA

**Proposed Findings and Order on Stipulation
to Continue Preliminary Hearing**

Based on the pending Stipulation between the defense and the government, and good cause appearing therefore, the Court hereby finds that:

1. The preliminary hearing in this matter currently is scheduled for September 14, 2020 at 4:00 p.m.
2. Because of the COVID-19 public health emergency and the resulting various closures, resource limitations, and social distancing guidelines, and because a continuance will allow defendant to plead guilty to a related criminal information, good cause exists to extend the deadline for the preliminary hearing by 21 days pursuant to Federal Rule of Criminal Procedure 5.1(d).
3. The defendant is in custody but consents to the continuance.
4. The time from September 14, 2020 through the continued hearing date is excludable under the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A), which provides that the Court may exclude time arising from a continuance upon finding that the ends of justice served by granting the continuance outweigh the best interest of the defendant and the public in a speedy trial. Here, the ends of justice served by granting the continuance outweigh the best interest of the defendant and the public in a speedy trial.

1 5. The time from September 14, 2020 through the continued hearing date is excludable in
2 computing the time within which the indictment must be filed pursuant to the Speedy Trial
3 Act, Title 18, United States Code, Section 3161(b), considering the factors under Title 18,
4 United States Code, Section 3161(h)(7)(A) and (B)(i) and (iv).

5 6. The time from September 14, 2020 through the continued hearing date is excludable in
6 computing the 90-day speedy trial clock imposed by the Speedy Trial Act, Title 18, United
7 States Code, Section 3161(c), considering the factors under Title 18, United States Code,
8 Section 3161(h)(7)(A) and (B)(i) and (iv).

9 7.

10 THEREFORE, IT IS HEREBY ORDERED that the preliminary hearing in the above-
11 captioned matter currently scheduled for September 14, 2020, be vacated and continued to
12 September 28, 2020, at 4:00 p.m. in Courtroom 3A.

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14 DATED this 2nd day of September, 2020.



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17 HONORABLE DANIEL J. ALBREGTS
18 United States Magistrate Judge
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